

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

ELISA BARTONE,

Plaintiff,

-against-

ERICA MATTERA, BARBARA NEIS, AND NEW YORK  
CITY DEPARTMENT OF EDUCATION,

Defendants.

**DEFENDANTS' NOTICE  
OF MOTION TO DISMISS  
THE COMPLAINT**

15 Civ. No. 6362 (MKB)  
(MDG)

**PLEASE TAKE NOTICE** that upon the accompanying Declaration of Kurt Rose, dated May 27, 2016, Memorandum of Law, dated May 27, 2016, and upon all the papers and proceedings previously had herein, Defendants will move this Court at the United States Courthouse for the Eastern District of New York, 225 Cadman Plaza East, Brooklyn, New York, 11201, before the Honorable Margo K. Brodie, United States District Court Judge, at a time and date to be designated by the Court, for a judgment, pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure, dismissing the Complaint against Defendants on the ground that the Complaint fails to state a claim upon which relief can be granted, and granting such other and further relief that this Court deems just and proper.

**PLEASE TAKE FURTHER NOTICE** that, pursuant to the Scheduling Order approved by the Court on April 19, 2016, answering papers, if any, must be served on or before June 21, 2016, and reply papers, if any, are to be served and filed on or before July 6, 2016.

**PLEASE TAKE FURTHER NOTICE** that in the event of the denial of this motion to dismiss, in whole or in part, Defendants respectfully request twenty (20) days from the docketing of the order in which to answer the Complaint.

Date: New York, New York  
May 27, 2016

**ZACHARY W. CARTER**  
Corporation Counsel of the  
City of New York  
Attorney for Defendants  
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New York, New York 10007  
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By: \_\_\_\_\_ /s/  
Kurt Rose  
Assistant Corporation Counsel

To: Jonathan B. Behrins, attorney for Plaintiff (by ECF)

15CV6362 (MKB) (MDG)

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**ZACHARY W. CARTER**

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*Attorney for Defendants*

*100 Church Street, Room 2-169*

*New York, New York 10007-2601*

*Of Counsel: Kurt Rose*

*Telephone: (212) 356-2469*

*Matter No. 2015-049214*

*Due and timely service is hereby admitted.*

*Dated: New York, N.Y.....2016*

*Signed.....*

*Attorney for .....*